

CITY OF LEROY
COUNTY OF MC LEAN
STATE OF ILLINOIS

ORDINANCE NO. 788

AN ORDINANCE APPROVING AN AGREEMENT
FOR SEWER EASEMENT

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY
THIS 16th DAY OF March, 1998

PRESENTED: March 16, 1998

PASSED: March 16, 1998

APPROVED: March 16, 1998

RECORDED: March 16, 1998

PUBLISHED: March 16, 1998

In Pamphlet Form

Voting "Aye" 5

Voting "Nay" 0

The undersigned being the duly qualified and acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned ordinance and that such ordinance was presented, passed, approved, recorded and published as above stated.

(SEAL)

X *Aue M...*
City Clerk of the City of LeRoy,
McLean County, Illinois

Dated: March 16, 1998.

ORDINANCE NO. 788

AN ORDINANCE APPROVING AN AGREEMENT
FOR SEWER EASEMENT

WHEREAS, the Mayor and City Council of the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, have reviewed a proposed easement conveying an Exclusive and Permanent Easement and Grant of Right-of-Way across the following described property:

A 20 foot wide strip parcel in the Northwest Quarter of Section 33 and the Southwest Quarter of Section 28, Township 22 North, Range 4 East of the Third Principal Meridian; the Centerline being described as follows:

Commencing, as a point of reference, at the Northwest Corner of the Northwest Quarter of said Section 33; thence 00 degrees 00 minutes 00 seconds East 430.30 feet along the West Line of the Northwest Quarter of said Section 33 to the Point of Beginning; thence 90 degrees 00 minutes 00 seconds East 14.00 feet; thence South 72 degrees 26 minutes 27 seconds East 296.96 feet; thence North 89 degrees 57 minutes 40 seconds East 800.00 feet; thence North 00 degrees 00 minutes 00 seconds East 1,071.39 feet to the South Line of Falcon Ridge Subdivision, being the end of said Centerline, all in the City of LeRoy, McLean County, Illinois,

for the limited purposes of constructing, reconstructing, replacing, maintaining, and keeping in repair one or more subsurface sewer lines across and under the previously described permanent right-of-way, and

WHEREAS, the Mayor and City Council of the City of LeRoy have determined that approval of the same by the City of LeRoy is in the best interests of the City and its residents,

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of LeRoy, Illinois, in lawful meeting assembled, as follows:

Section 1: That agreement titled "Easement," a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, is hereby approved.

Section 2: A copy of a plat showing the location of the aforesaid easement, as it is described in Exhibit A attached hereto, is set forth in Exhibit B, attached hereto and incorporated herein by reference.

Section 3: The Mayor and City Clerk are hereby directed and authorized to sign the original and as many copies as appropriate of that agreement as set forth in Exhibit "A" attached hereto, being certain to obtain one or more fully signed copies for the records of the City.

Section 4: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

PASSED by the City Council of the City of LeRoy, Illinois, upon the motion by Dave McClelland, seconded by Dick Oliver, by roll call vote on the 16th day of March, 1998, as follows:

Aldermen elected 6 Aldermen present 5

VOTING YAYE:
Ryan Miles, Ron Litherland, Dave McClelland, W.H. Weber, Dick Oliver.
(full names)

VOTING NAY:
None
(full names)

ABSENT, ABSTAIN, OTHER:
Dawn Thompson-absent
(full names)

and deposited and filed in the office of the City Clerk in said municipality on the 16th day of March, 1998.

X Sue Marcum
Sue Marcum, City Clerk of the City of LeRoy, McLean County, Illinois

APPROVED BY the Mayor of the City of LeRoy, Illinois, this 16th day of March, 1998.

X Robert Rice
Robert Rice, Mayor of the City of LeRoy, McLean County, Illinois

ATTEST: (SEAL)
X Sue Marcum
Sue Marcum, City Clerk of the City of LeRoy, McLean County, Illinois

Mail to: Hunt Henderson, Attorney
for the City of LeRoy
112 E. Center Street
LeRoy, IL 61752

EASEMENT

THE GRANTOR, Marsh Development Corporation, of the City of LeRoy, County of McLean, State of Illinois (hereinafter referred to as "GRANTOR"), in consideration of One Dollar (\$1.00) in hand paid and other good and valuable consideration, does hereby convey to the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation (hereinafter referred to as "CITY"), an Exclusive Permanent Easement and Grant of Right-Of-Way across the following described premises:

A 20 foot wide strip parcel in the Northwest Quarter of Section 33 and the Southwest Quarter of Section 28, Township 22 North, Range 4 East of the Third Principal Meridian; the Centerline being described as follows:

Commencing, as a point of reference, at the Northwest Corner of the Northwest Quarter of said Section 33; thence South 00 degrees 00 minutes 00 seconds East 430.30 feet along the West Line of the Northwest Quarter of said Section 33 to the Point of Beginning; thence 90 degrees 00 minutes 00 seconds East 14.00 feet; thence South 72 degrees 26 minutes 27 seconds East 296.96 feet; thence North 89 degrees 57 minutes 40 seconds East 800.00 feet; thence North 00 degrees 00 minutes 00 seconds East 1,071.39 feet to the South Line of Falcon Ridge Subdivision, being the end of said Centerline, all in the City of LeRoy, McLean County, Illinois.

The Easement granted herein shall be for the limited purposes of constructing, reconstructing, replacing, maintaining, and keeping in repair one or more subsurface sewer lines across and under the previously described permanent right-of-way. CITY, its agents, employees and assignees, shall have the right from time to time to enter and depart over and upon the above-described premises to effect the purposes of the easement herein granted.

In consideration of the conveyance by GRANTOR, CITY agrees as follows:

1. Upon completion of any construction, reconstruction, maintenance or repair, as provided previously herein, CITY shall restore the premises previously described herein to that

condition as such premises existed prior to the aforesaid construction, reconstruction, maintenance or repair as nearly as may be reasonably possible, in keeping with good engineering practices, accepted soil erosion control practices, and in keeping with good farming and agricultural practices.

2. GRANTOR shall have the right to use the premises located within the easement description for purposes not inconsistent with CITY's full enjoyment of the rights hereby granted, provided that GRANTOR shall not erect or construct any building or other structure, or drill or operate any well, or construct any other obstruction within the easement way.

3. Upon acceptance of the subsurface sewer line already existing or soon to be constructed within the easement way previously described herein, any and all future costs and expenses, after such acceptance, with regard to the aforesaid easement and use of the same by CITY, including, but not limited to, construction, reconstruction, operation and maintenance, in good repair, of said subsurface sewer line or lines, shall be the duty and obligation of CITY and CITY shall repair any damage caused by it to GRANTOR'S premises, and shall save and hold harmless and indemnify GRANTOR from any and all liability which may be incurred by GRANTOR by reason of the construction, reconstruction, maintenance, operation and repair of said subsurface sewer line(s) and that may be incurred by GRANTOR by reason of CITY's exercise of its right to enter and depart upon the described easement way as previously set forth.

4. CITY agrees, upon the completion of any construction, reconstruction, or maintenance work conducted by it on or in the easement way to reseed the stand of grass in the easement way, to the extent of any grassy area damaged, and to follow up the reseeding, as may be necessary, to water and fertilize the seed bed in order to re-establish the grassy area in a condition the same as or better than it existed prior to the damage to the grassy area by CITY or its agents, employees, or contractors.

5. The parties hereto agree that CITY, its agents, employees and contractors, from time to time, may place temporary stakes and markers within the easement way in order to facilitate construction, reconstruction, or repair work. Further, that GRANTOR shall not place any fencing along the sides, on either end, or within the easement way, without CITY's consent.

6. GRANTOR, GRANTOR's agents, employees, tenants, assigns and successors in interest shall have the right to cross the easement way at any point or place, including making multiple crossings at a number of points or places, for the purpose of reaching the other side of the easement way to the extent GRANTOR, or GRANTOR's assigns or successors in interest, have land adjacent to the easement way on either side of the easement way, for all reasonable purposes that GRANTOR, or GRANTOR's assigns and successors in interest, may have for the use of all said real estate. In crossing the easement way, GRANTOR, and GRANTOR's agents, employees, tenants, assigns and successors in interest, shall take every reasonable precaution to minimize or prevent damaging the way and thus making the easement way less likely to fulfill the purposes for which the way is granted to CITY, or increasing the burden of CITY to repair and maintain the easement way in good condition.

7. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, tenants, personal representatives, and successors in interest, of the parties hereto.

8. The rule of strict construction shall not apply to this grant of easement. This grant shall be given a reasonable construction so that the intention of the parties to confer a usable right in grantee (CITY) is carried out.

9. This written agreement contains the sole and entire agreement between the parties, and supersedes any and all other agreements between them. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this agreement or any representations inducing the execution and delivery of this agreement except such representations as are specifically set forth herein, and each party acknowledges that he, she, or it has relied on his, her, or its own judgment in entering into this agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his, her or its dealings with the other.

10. No waiver or modification of this agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this agreement, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

11. This agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of Illinois.

12. Should either party, or the respective heirs, executors, administrators, assigns or successors in interest of either party, to this agreement, be required to incur attorney fees, costs, and/or other expenses as a result of the other party's failure to perform any obligation pursuant to the terms of this agreement, then the party so failing to perform shall be liable to the other party for any reasonable attorney fees, costs, and expenses incurred by such other party. Should either party to this agreement, or the respective heirs, executors, administrators, assigns or successors in interest of either party, fail to reimburse the other party for such reasonable attorney fees, costs, and other expenses, as aforesaid, then said amount may be obtained or collected by the party to whom it is due by bringing an action against the other party for such fees, costs and expenses incurred as a result of the first party's failure to perform.

13. It is expressly understood and agreed between the parties to this agreement that in the event a court of competent jurisdiction shall at any time after the date of this agreement hold that a portion of this agreement is invalid, illegal or unenforceable, the remainder shall not be affected thereby, but shall continue in full force and effect.

14. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

15. Whenever the context of this agreement requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural.

16. This agreement shall be binding upon and inure to the benefit of the respective parties, their respective heirs, executors, administrators, assigns and successors in interest.

17. This agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same agreement.

18. Service of all notices under this agreement shall be sufficient if given personally or mailed via certified mail to the party involved at its respective address as previously set forth in this agreement, or at such other address as such party may provide in writing from time to time in accordance with this section regarding notices. Any such notice mailed to such address shall be

effective when deposited in the United States mail, duly addressed and with first-class postage prepaid.

IN WITNESS WHEREOF, the GRANTOR has set its hand and seal this 16th day of March, 1998.

MARSH DEVELOPMENT CORPORATION,

BY: _____ (SEAL)
Paul L. Phillips, President

ATTEST:

(SEAL)

BY: _____
John A. Kahlc, Secretary

CITY OF LEROY, McLean County, Illinois,
an Illinois municipal corporation,

By: _____
Robert Rice, Mayor

ATTEST:

(SEAL)

Sue Marcum, City Clerk of the City of
LeRoy, McLean County, Illinois

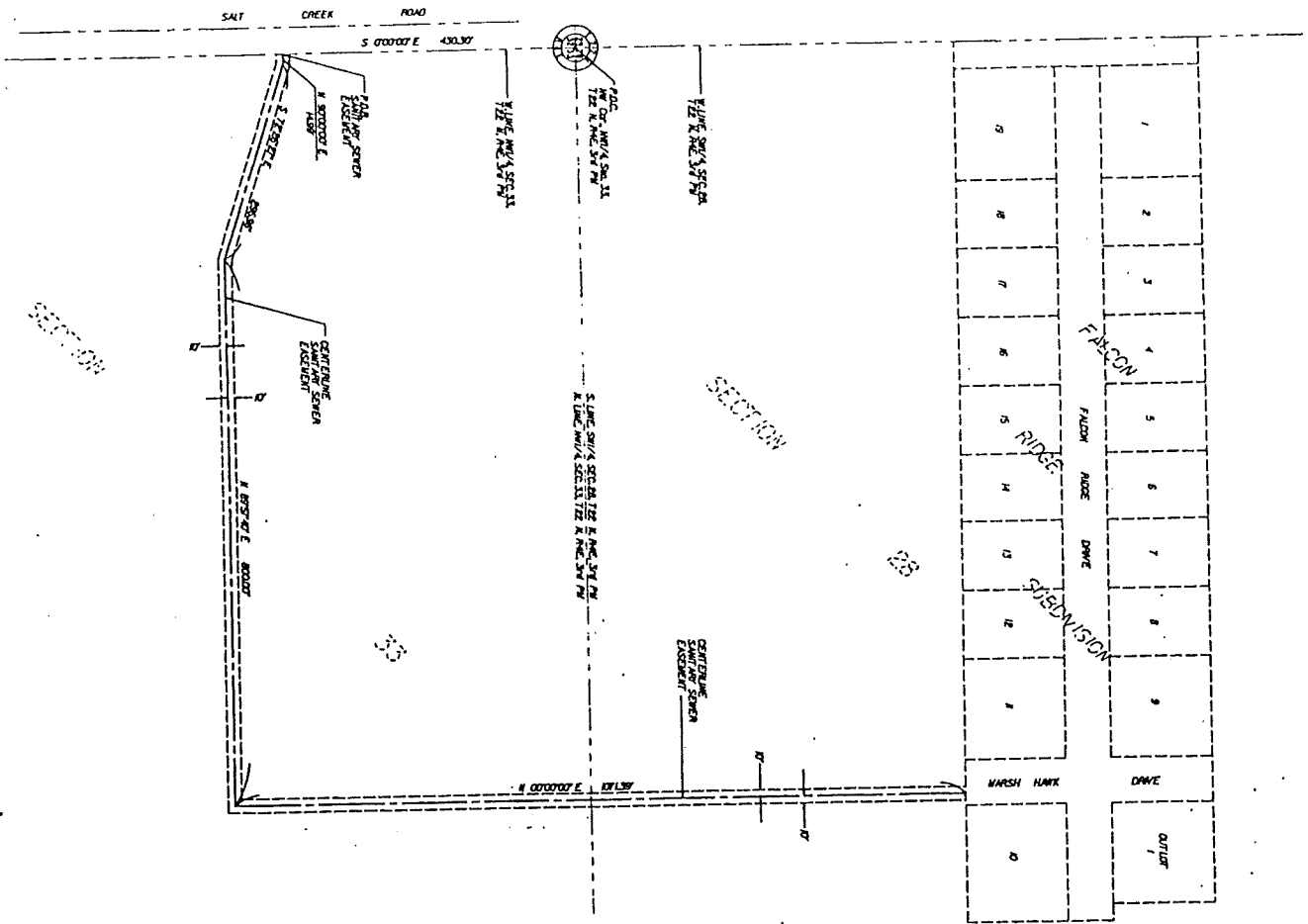
STATE OF ILLINOIS)
) SS.
COUNTY OF MCLEAN)

I, the undersigned, a Notary Public in and for said county and state aforesaid, DO HEREBY CERTIFY that Robert Rice, personally known to me to be the Mayor of the City of LeRoy, and Sue Marcum, personally known to me to be the City Clerk of said city, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such mayor and city clerk, they signed and delivered said instrument of writing as mayor and as city clerk of said city, and caused the seal of the City of LeRoy to be affixed thereto pursuant to authority given by the City Council of said city as a free and voluntary act, and as the free and voluntary act and agreement of the City of LeRoy for the uses and purposes therein set forth.

Given under my hand and notarial seal, this _____ day of _____, 1998.

Notary Public

My Commission Expires: _____



LEGAL DESCRIPTION

A 20 foot wide strip parcel in the Northwest Quarter of Section 23 and the Southwest Quarter of Section 24, Township 4 North, Range 4 East of the Third Principal Meridian, the corners being shown as a point of reference at the Northwest Corner of the Northwest Quarter of said Section 23, Thence South 00 Degrees 00 Minutes 00 Seconds East 400.00 feet along the West Line of the Northwest Quarter of said Section 23 to the North 77 Degrees 28 Minutes 30 Seconds East 200.00 feet Thence North 77 Degrees 28 Minutes 30 Seconds East 200.00 feet Thence North 00 Degrees 00 Minutes 00 Seconds East 100.00 feet to the South Line of Falcon Ridge Subdivision being the same as shown on the plat of said Subdivision.

Signed and sealed this 14th day of November, 1931.
 Thomas F. Shive



<p>Falton Ridge Subdivision Marsh Development Corporation LeRoy, Illinois Exhibit B</p>	<p>SHIVE HATTERY Cedar Rapids, IA • Iowa City, IA • Des Moines, IA Moline, IL • Bloomington, IL</p>
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CERTIFICATE

I, Sue Marcum, certify that I am the duly elected and acting municipal clerk of the City of LeRoy, of McLean County, Illinois.

I further certify that on March 16, 1998, the Corporate Authorities of such municipality passed and approved Ordinance No. 788, entitled:

AN ORDINANCE APPROVING AN AGREEMENT
FOR SEWER EASEMENT

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 788, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on March 16, 1998, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at LeRoy, Illinois, this 16th day of March, 1998.

(SEAL)


Sue Marcum
Municipal Clerk

STATE OF ILLINOIS)
) SS:
COUNTY OF McLEAN)

I, Sue Marcum, do hereby certify that I am the duly qualified and acting City Clerk of the City of LeRoy , McLean County, Illinois, and as such City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

AN ORDINANCE APPROVING AN AGREEMENT
FOR SEWER EASEMENT

I do further certify said ordinance was adopted by the City Council of the City of LeRoy at a regular meeting on the 16th day of March , 1998, and prior to the making of this certificate the said ordinance was spread at length upon the permanent records of said City where it now appears and remains as a faithful record of said ordinance in the record books.

Dated this 16th day of March , 1998.

X Sue Marcum
City Clerk

(SEAL)